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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2100

JOHN CHARLES HUDDLESTON
2426 Riverside Drive
Los Angeles, California 90039

A C C U S A T I O N

Respiratory Care Practitioner License No. 12514

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California (Board), Department of Consumer Affairs.

2. On or about February 14, 1989, the Board issued Respiratory Care Practitioner License Number 12514 to John Charles Huddleston (Respondent). This license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2008, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless

1 otherwise indicated.

2 4. Section 3710 of the Code states: “The Respiratory Care Board of
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
4 8.3, the Respiratory Care Practice Act].”

5 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,
6 and revoke licenses to practice respiratory care as provided in this chapter.”

7 6. Section 3750 of the Code states:

8 “The board may order the denial, suspension or revocation of, or the imposition of
9 probationary conditions upon, a license issued under this chapter, for any of the following
10 causes:

11 “... ”

12 “(d) Conviction of a crime that substantially relates to the qualifications,
13 functions, or duties of a respiratory care practitioner. The record of conviction or a
14 certified copy thereof shall be conclusive evidence of the conviction.

15 “... ”

16 7. Section 3752 of the Code states:

17 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
18 made to a charge of any offense which substantially relates to the qualifications,
19 functions, or duties of a respiratory care practitioner is deemed to be a conviction within
20 the meaning of this article. The board shall order the license suspended or revoked, or
21 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
22 conviction has been affirmed on appeal or when an order granting probation is made
23 suspending the imposition of sentence, irrespective of a subsequent order under Section
24 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
25 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
26 accusation, information, or indictment.”

27 8. California Code of Regulations, Title 16, section 1399.370, states:

28 “For the purposes of denial, suspension, or revocation of a license, a crime or act

1 shall be considered to be substantially related to the qualifications, functions or duties of
2 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
3 perform the functions authorized by his or her license or in a manner inconsistent with the
4 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
5 those involving the following:

6 “ . . .

7 “(c) Conviction of a crime involving driving under the influence or reckless
8 driving while under the influence.

9 “”

10 COST RECOVERY

11 9. Section 3753.5, subdivision (a) of the Code states:

12 “In any order issued in resolution of a disciplinary proceeding before the board,
13 the board or the administrative law judge may direct any practitioner or applicant found to
14 have committed a violation or violations of law to pay to the board a sum not to exceed
15 the costs of the investigation and prosecution of the case.”

16 10. Section 3753.7 of the Code states:

17 “For purposes of the Respiratory Care Practice Act, costs of prosecution shall
18 include attorney general or other prosecuting attorney fees, expert witness fees, and other
19 administrative, filing, and service fees.”

20 11. Section 3753.1, subdivision (a) of the Code states:

21 “An administrative disciplinary decision imposing terms of probation may
22 include, among other things, a requirement that the licensee-probationer pay the monetary
23 costs associated with monitoring the probation.”

24 CAUSE FOR DISCIPLINE

25 (Conviction of a Crime)

26 12. Respondent is subject to disciplinary action under sections 3750,
27 subdivision (d), and 3752 of the Code, and California Code of Regulations, Title 16, section
28 1399.370, subdivision (c), in that he was convicted of a crime substantially related to the

1 qualifications, functions or duties of a respiratory care practitioner. The circumstances are as
2 follows:

3 A. On or about December 7, 2006, Glendale police officers responded to a
4 report that Respondent was creating a disturbance at Foxy's restaurant. The officers
5 advised Respondent not to drive because he had been drinking. Respondent stated he
6 knew it was child endangering for him to drive, and that he was waiting for his wife to
7 pick up him and their children. About an hour later, the officers were notified that
8 Respondent was driving away from the restaurant with his two children. The officers
9 followed him and observed that he was swerving and almost hit a parked truck.
10 Respondent parked in front of his home. When the officers contacted him, they noticed
11 his breath had an odor of alcohol, his eyes were bloodshot and watery, and his speech was
12 slurred and incoherent at times. Respondent stated he had been drinking two glasses of
13 wine. He was unable to successfully perform the field sobriety tests.

14 B. On or about January 29, 2007, in Los Angeles County Superior Court
15 Complaint No. 7GN00639, Respondent was charged with violating Vehicle Code
16 sections 23152(a) driving under the influence of alcohol, a misdemeanor (Count 1),
17 Vehicle Code section 23152(b), driving with .08% or higher blood alcohol level, a
18 misdemeanor (Count 2) and Penal Code section 273a(b), cruelty to a child by
19 endangering health, a misdemeanor (Count 3).

20 C. On or about March 23, 2007, pursuant to a negotiated plea agreement,
21 Respondent was convicted upon his plea of nolo contendere to driving with .08% or
22 higher blood alcohol level (Count 2). Proceedings were suspended, and Respondent was
23 placed on probation for three years on a number of terms and conditions, among others:
24 pay fines and fees of \$1,574.00, and complete a three month licensed first-offender
25 alcohol program. Counts 1 and 3 of the complaint were dismissed.

26 DISCIPLINE CONSIDERATIONS

27 13. To determine the degree of discipline, to be imposed on Respondent,
28 Complainant alleges that in a prior disciplinary action entitled *In the Matter of the Accusation*

1 *Against John Charles Huddleston*, before the Respiratory Care Board of California, Case
2 Number R-1078, Respondent was charged with conviction of the crime of spousal battery and
3 commission of a corrupt act. The Board issued a decision effective November 15, 1995, in
4 which Respondent's license was placed on probation for three years with various terms and
5 conditions. Respondent was granted early termination of probation in a decision effective May
6 20, 1998. Those decisions are incorporated herein by reference.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein
9 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

10 1. Revoking or suspending Respiratory Care Practitioner License Number
11 12514 issued to John Charles Huddleston;

12 2. Ordering John Charles Huddleston to pay the Respiratory Care Board the
13 costs of the investigation and enforcement of this case, and if placed on probation, the costs of
14 probation monitoring; and,

15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: September 14, 2007

17
18 Original signed Liane Zimmerman for:
19 STEPHANIE NUNEZ
20 Executive Officer
21 Respiratory Care Board of California
22 Department of Consumer Affairs
23 State of California
24 Complainant
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